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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,395	12/19/2001	Albert R. Kelly		2536

43399 7590 06/16/2005

EVELYN M. SOMMER  
250 PARK AVE  
RM 825  
NEW YORK, NY 10221

EXAMINER
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PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/021,395

Applicant(s)

KELLY, ALBERT R.

Examiner

Jeremy R. Pierce

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-13 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed on April 20, 2005 has been entered. Claims 1-5 and 7-14 have been amended. Claim 6 has been cancelled. New claims 16-20 have been added. Claims 1-5 and 7-20 are currently pending with claims 14 and 15 withdrawn from consideration.
2. Applicant's amendment to the Specification on August 11, 2004 is sufficient to overcome the Objection to the Specification set forth in section 7 of the Office Action dated May 30, 2003.

### ***Claim Objections***

3. Claim 19 is objected to because of the following informalities: Claim 19 contains two sentences. Each individual claim must be written in a single sentence. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 7, 8, 12, 16, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haq et al. (U.S. Patent No. 4,603,069) in view of Lutzow et al. (U.S. Patent No. 5,466,516).

Haq et al. disclose a cleaning wipe article where a core layer is sandwiched by two nonwoven fabric layers that are ultrasonically bonded (column 3, lines 35). The outer layers may comprise thermoplastic material (column 2, lines 16-20). Haq et al. disclose the article can remain dry prior to use (column 4, lines 44-46). The core layer may be any suitable material that can absorb liquids (column 3, lines 57-65), but Haq et al. fail to disclose the core to be nonwoven. Lutzow et al. disclose that a nonwoven absorbent core may be ultrasonically bonded between two outer nonwoven layers (column 2, lines 28-44). It would have been obvious to one having ordinary skill in the art to use a nonwoven layer as the central layer of Haq et al. in order to be able to bond the central layer to the outer layers, and since nonwoven absorbent fabrics are commonly used in wiping articles. Haq et al. also disclose a cleaning composition to be present in the core layer (column 3, lines 46-56). Neither Haq et al. nor Lutzow et al. disclose the size of the perforations created by ultrasonic welding. However, the size of the perforations would be a result effective variable that would affect the overall porosity of the fabric and water transport properties among the layers. It would have been obvious to one having ordinary skill in the art to make the perforations be less than 0.5 mm in diameter in order to prohibit liquid from transferring through the fabric easily, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA

1980). With regard to claim 7, fabric layers that are ultrasonically bonded are typically subject to delamination unless further bonding techniques are employed to strengthen the bonding between layers. If not, delamination would be obviously enabled by adjusting the number or size of the bonds between the layers. It would have been obvious to a person having ordinary skill in the art to lessen the amount of bonds between the layers in order to obtain a more flexible article, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. With regard to claim 8, Haq et al. disclose the possibility of using an additional layer (column 3, line 28). With regard to claim 12, any additional layer would inherently be a partial fluid barrier, since an article that is physically present could partially bar fluid. With regard to claim 16, although Haq et al. do not disclose a specific thermoplastic fiber for the out<sup>er</sup> layer, Lutzow et al. teach that common thermoplastic fibers include polyolefin and polyesters (column 1, lines 20-23). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use polyester or polyolefin fibers in the outer layers of Haq et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. With regard to claim 17, Haq et al. teach the outer layers may be the same (column 3, lines 8-10).

6. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haq et al. in view of Lutzow et al. and further in view of Bullock et al. (U.S. Patent Application Publication 2002/0151452).

Haq et al. do not disclose specific compositions for the cleaning solution. Bullock et al. disclose a surface wiping comprising a cleaning solution (Abstract). The composition may include anionic, amphoteric, or nonionic surfactant. It would have been obvious to one having ordinary skill in the art to use the surfactants disclosed by Bullock et al. in the surface wiping material of Haq et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. With regard to claim 3, Bullock et al. disclose various sulfate and sulfonate surfactants (paragraph 90). With regard to claim 4, Bullock et al. disclose alkyl polyglucosides (paragraph 101). With regard to claim 5, Bullock et al. disclose using betaines (paragraph 95).

7. Claims 2, 3, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haq et al. in view of Lutzow et al. and further in view of Jackson et al. (U.S. Patent No. 4,865,221).

Haq et al. do not disclose the amount of cleaning solution to be present in the entire article. Jackson et al. disclose a wet-wipe having liquid present in an amount of 120 percent by weight of the web (column 5, lines 58-59). It would have been obvious to one having ordinary skill in the art to impregnate the article of Haq et al. with 120% by weight cleaning solution in order to obtain a wiper that is useful as a wet-wipe, as taught by Jackson et al. With regard to claims 2 and 3, Jackson et al. teach the cleaning solution to comprise disodium phosphate (column 5, line 64).

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haq et al. in view of Lutzow et al. and further in view of Chou et al. (U.S. Patent No. 6,312,484).

Haq et al. do not disclose adding an abrasive material or flame treating a surface to give a different texture. Chou et al. disclose a surface wiping article where abrasive material is added to the surface in order to improve cleaning capabilities (column 1, lines 11-24). It would have been obvious to one having ordinary skill in the art to add an abrasive material to the surface of the wipe of Haq et al. in order to improve the cleaning ability of the article, as taught by Chou et al.

9. Claims 10, 11, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haq et al. in view of Lutzow et al. and further in view of Perdelwitz et al. (U.S. Patent No. 5,085,914).

With regard to claims 10 and 11, Haq et al. do not disclose embossing one of the layers to give a different texture. Perdelwitz et al. disclose embossing apertured cover sheets differently can create a wipe varying surface characteristics (Abstract). It would have been obvious to one having ordinary skill in the art to emboss the article of Haq et al. in order to create a wiping article with a rougher surface on one side and a smoother surface on another to increase the usages of the article, as taught by Perdelwitz et al.

With regard to claim 18, Haq et al. disclose the core layer may comprise absorbent material (column 2, line 7). However, Haq et al. do not disclose the material may comprise cellulose. Perdelwitz et al. disclose that a well-known absorbent material is cellulose (column 1, line 62). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use cellulosic materials in the core of Haq et al. in order to provide absorbent quality to the core layer of Haq et al., as taught to be known by Perdelwitz et al.

***Response to Arguments***

10. Applicant's arguments filed August 11, 2004 have been fully considered but they are not persuasive.

11. Applicant argues that Haq et al. disclose a very different structure. However, so long as the claim limitations are met, Haq et al. may be used in a prior art rejection. Applicant argues that the material and bonding technique used by Haq et al. differ entirely from that of the present invention. However, claim 1 recites thermoplastic materials for the outer layer, which Haq et al. disclose at column 2, line 20. Claim 1 also recites the bonding is performed by ultrasonic means, which Haq et al. disclose at column 2, line 16.

12. Applicant argues that the bonding of Haq et al. does not involve the middle layer. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., bonding involves the middle layer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In fact, Applicant claims the middle layer comprises cellulosic material in claim 18. This would require the middle layer not be involved with the bonding.

13. Applicant argues that Haq et al. feels to the hand like a fairly bulky cleaning cloth such as chamois leather. However, the present claims do not preclude a bulky cleaning cloth such as chamois leather.



14. Applicant argues that the Examiner relies upon Lutzow as teaching that the nonwoven absorbent core may be ultrasonically bonded between two outer nonwoven layers. However, Lutzow is not used for this purpose in the rejection. Lutzow is only used to show that the core layer may be nonwoven. Thus, Lutzow is combined with Haq et al. to show that the core layer of Haq et al. may also be nonwoven. Lutzow teaches ultrasonic bonding, as illustrated by the Abstract of Lutzow.

15. Applicant argues that Bullock, Jackson, Chou, and Perdelwitz fail to make up deficiencies in the combination of Haq et al. and Lutzow. However, since the Examiner does not feel there exists any deficiencies in the initial combination of Haq et al. and Lutzow, these arguments are moot.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 6,846,480 to Smith et al.

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (571) 272-1479. The examiner can normally be reached on Monday-Friday between 9am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeremy R. Pierce  
June 13, 2005

  
ELIZABETH M. COLE  
PRIMARY EXAMINER